

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

AUGUSTA DIVISION

FILED
U.S. DISTRICT COURT
2009 DEC -2 P 12:33

RODAGUS MARILENTO THOMAS,)

Petitioner,)

v.)

UNITED STATES OF AMERICA,)

Respondent.)

CV 108-133
(Formerly CR 106-130)

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which objections have been filed.¹ Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Therefore, Petitioner's § 2255 motion is **DENIED** without an evidentiary hearing,

¹The Court notes that on the same day the Report and Recommendation was entered, Petitioner executed a "Motion for Supplemental Pleadings" and the corresponding "Supplement." (Doc. nos. 21, 22). However, the motion and "Supplement" were not filed with the Court until four days later. While Petitioner requests in his motion that he be permitted to supplement his pleadings pursuant to Fed. R. Civ. P. 15(d), a closer review of the motion and "Supplement" reveals that Petitioner seeks to supplement his reply to the government's response to his § 2255 motion. Notably, the Court previously granted Petitioner permission to file a reply and instructed him that his reply must be filed by May 5, 2009. (See doc. no. 17). Petitioner timely submitted his reply brief. (Doc. no. 18). While the Court does not condone Petitioner's actions in supplementing his reply well past the May 5th deadline without the Court's permission, the Court nevertheless recognizes that Rule 5(d) of the Rules Governing Section 2255 proceedings permits the filing of a reply brief. Accordingly, Petitioner's motion is **GRANTED** (doc. no. 21), and the Court has considered the arguments Petitioner makes in "Supplement" along with his objections to the Report and Recommendation. That said, the arguments Petitioner makes in his "Supplement" do not change the Court's opinion with respect to the Report and Recommendation.

this civil action is **CLOSED**, and a final judgment shall be **ENTERED** in favor of Respondent.

SO ORDERED this 2nd day of December, 2009, at Augusta, Georgia.


UNITED STATES DISTRICT JUDGE